

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROMERO MONTE THOMAS-EL,

Plaintiff,

v.

Case No. 2:19-cv-11713

Hon. Arthur J. Tarnow

DOUGLAS SMITH, et al.,

Defendants.

OPINION AND ORDER OF DISMISSAL

Plaintiff Romero Monte Thomas-El filed this *pro se* civil rights complaint on June 7, 2019, against several employees of the Michigan Department of Corrections. Plaintiff has now informed the Court that he filed a lawsuit against the same defendants four days earlier. (Notice at 1, ECF No. 4, PageID 34.) That matter is Case No. 2:19-cv-11554. Plaintiff requests this Court “defer this case and all documents within this matter” to the earlier case. (*Id.* at 2.) Instead, the Court will dismiss the Complaint.

Plaintiff filed a second action against the same defendants because the original complaint, filed May 8, 2019, had not been received two weeks later by the clerk’s office of the Federal District Court, Eastern District of Michigan. (Complaint at 7, ECF No. 1, PageID 10.) Plaintiff was advised to file a second time

to obtain a case number from which he could obtain the court's assistance and then amend the complaint to reflect the original action. (*Id.*)

A litigant has “no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendants.” *Cummings v. Mason*, No. 11-649, 2011 WL 2745937 (W.D. Mich. July 13, 2011) (quoting *Walton v. Eaton Corp.*, 563 F.2d 66, 70 (3d Cir. 1977)). As part of its inherent power to administer its docket, a district court may dismiss a suit that is duplicative of another federal court suit. *Cummings*, 2011 WL 2745937 at *1 (citing, *inter alia*, *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); *Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997)). A suit is duplicative, and thus subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See Barapind v. Reno*, 72 F.Supp.2d 1132, 1145 (E.D.Cal.1999); *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993).

The defendants in the two actions are identical, as are the provisions of the U.S. and Michigan Constitutions Plaintiff alleges were violated. Further, Plaintiff's Complaint makes clear that his intent in filing the instant case was to bring the claims of Case No. 19-11554 before the Court. As he has achieved that aim, this matter is now duplicative.

For the reasons stated above, the Complaint is **DISMISSED**.

SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: June 26, 2019